

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 538
SENATE BILL 184

1 AN ACT TO AMEND ARTICLE 21, CHAPTER 143 OF THE GENERAL STATUTES TO
2 CLARIFY THE AUTHORITY OF LOCAL AIR POLLUTION CONTROL PROGRAMS.

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4 The General Assembly of North Carolina do enact:

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6 **Section 1.** G.S. 143-215.3(a)(11), as the same appears in the 1967 Supplement to
7 the 1964 Replacement Volume 3C of the North Carolina General Statutes, is hereby amended
8 by adding at the end thereof the following:

9 "e. Local Air Pollution Control Programs Authorized. 1. The governing body of any
10 county, municipality, or group of counties and municipalities within a designated area of the
11 State, as defined in this Article, subject to the approval of the Board of Water and Air
12 Resources, is hereby authorized to establish, administer, and enforce a local air pollution
13 control program for the county, municipality, or designated area of the State which includes but
14 is not limited to:"

- 15 (i) Development of a comprehensive plan for the control and abatement of new
16 and existing sources of air pollution.
- 17 (ii) Air quality monitoring to determine existing air quality and to define
18 problem areas, as well as to provide background data to show the
19 effectiveness of a pollution abatement program.
- 20 (iii) An emissions inventory to identify specific sources of air contamination and
21 the contaminants emitted, together with the quantity of material discharged
22 into the outdoor atmosphere.
- 23 (iv) Adoption, after notice and public hearing, of air quality and emission control
24 standards or by reference such standards as are promulgated by the Board of
25 Water and Air Resources.
- 26 (v) Provisions for the establishment or approval of time schedules for the
27 control or abatement of existing sources of air pollution and for the review
28 of plans and specifications and issuance of approval documents covering the
29 construction and operation of pollution abatement facilities at existing or
30 new sources.
- 31 (vi) Provision for adequate administrative staff, including an air pollution control
32 officer and technical personnel, and provision for laboratory and other
33 necessary facilities.

34 2. Each governing body is authorized to adopt any ordinances, resolutions, rules or
35 regulations which are necessary to establish and maintain an air pollution control program and
36 to prescribe and enforce air quality and emission control standards, a copy of which must be
37 filed with the State Board of Water and Air Resources and with the clerk of court of any county
38 affected. Provisions may be made therein for the registration of air contaminant sources; for the
39 requirement of a permit to do or carry out specified activities relating to the control of air
40 pollution, including procedures for application, issuance, denial and revocation; for notification
41 of violators or potential violators about requirements or conditions for compliance; for
42 procedures to grant temporary permits or variances from requirements or standards; for the
43 declaration of an emergency when it is found that a generalized condition of air pollution is

causing imminent danger to the health or safety of the public and the issuance of an order to the responsible person or persons to reduce or discontinue immediately the emission of air contaminants; for notice and hearing procedures for persons aggrieved by any action or order of any authorized agent; for the establishment of an advisory council and for other administrative arrangements; and for other matters necessary to establish and maintain an air pollution control program.

3. The penalty for violation of any of the requirements contained in such ordinances, resolutions, rules or regulations shall, upon conviction, be a fine of not more than fifty dollars (\$50.00) or imprisonment for not more than thirty days, except that the penalty for violation of an order for the abatement of air pollution issued by the governing body after notice and hearing shall, upon conviction, be a fine of not more than two hundred fifty dollars (\$250.00) or imprisonment for not more than thirty days. Each day in violation shall constitute a separate offense and shall be subject to the foregoing penalties.

4. Each governing body, or its duly authorized agent, may institute a civil action in the Superior Court, brought in the name of the agency having jurisdiction, for injunctive relief to restrain any violation or immediately threatened violation of such ordinances, orders, rules, or regulations and for such other relief as the court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from the penalty prescribed by this Article for any violation of same.

5. In addition, each governing body is authorized to expend tax funds, non-tax funds, or any other funds available to it to finance an air pollution control program and such expenditures are hereby declared to be for a public purpose and a necessary expense.

6. Any final administrative decision rendered in an air pollution control program of such governing body shall be subject to judicial review as provided by Article 33 of Chapter 143, and 'administrative agency' or 'agency' as used therein shall mean and include for this purpose the governing body of any county or municipality, regional air pollution control governing board, and any agency created by them in connection with an air pollution control program.

f. Administration of County or Municipal Air Pollution Control Programs. Subject to the approval of the Board of Water and Air Resources as provided in this Article, the governing body of any county or municipality may establish, administer, and enforce an air pollution control program by either of the following methods:

- (i) Establishing a program under the administration of the duly elected governing body of the county or municipality;
- (ii) Appointing an air pollution control board consisting of not less than five nor more than seven members who shall serve for terms of six years each and until their successors are appointed and qualified. Two members shall be appointed for two year terms, two shall be appointed for four year terms, and the remaining member or members shall be appointed for six year terms. Where the term 'governing body' is referred to in this section, it shall include the air pollution control board. Such board shall have all the powers and authorities granted to any local air pollution control program. The Board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board.
- (iii) Appointing an air pollution control board as provided in this section, and by appropriate written agreement designating the local health department or other department of county or municipal government as the administrative agent for the air pollution control board; and
- (iv) Designating, by appropriate written agreement, the local board of health and the local health department as the air pollution control board and agency.

g. Creation and Administration of Regional Air Pollution Control Programs. In addition to any other powers provided by law and subject to the provisions of this section, each governing body of a county or municipality is hereby authorized and empowered to establish by contract, joint resolution, or other agreement with any other governing body of a county or municipality, upon approval by the Board of Water and Air Resources, an air pollution control region containing any part or all of the geographical area within the jurisdiction of those boards or governing bodies which are parties to such agreement, provided the counties involved in the region are contiguous or lie in a continuous boundary and comprise the total area contained in any region designated by the Board of Water and Air Resources for an area-wide program. The participating parties are authorized to appoint a regional air pollution control board which shall consist of at least five members who shall serve for terms of six years and until their successors are appointed and qualified. Two members shall be appointed for two year terms, two shall be appointed for four year terms and the remaining member or members shall be appointed for six year terms. A participant's representation on the board shall be in relation to its population to the total population of the region based on the latest Official U.S. Census with each participant in the region having at least one representative; provided, that where the region is comprised of less than five counties, each participant will be entitled to appoint members in relation to its population to that of the region so as to provide a board of at least five members. Where the term 'governing body' is used, it shall include the governing board of a region. The regional board is hereby authorized to exercise any and all of the powers provided in this section. The regional air pollution control board shall elect a chairman and shall meet at least quarterly or upon the call of the chairman or any two members of the board. In lieu of employing its own staff, the regional air pollution control board is authorized, through appropriate written agreement, to designate a local health department as its administrative agent."

Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 19th day of May, 1969.